



## DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Docket No. SLSDC-2013-0001

2135-AA31

Seaway Regulations and Rules: Periodic Update, Various Categories

**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.

**ACTION:** Final Rule.

**SUMMARY:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; Dangerous Cargo; and, Information and Reports. These amendments are necessary to take account of updated procedures and will enhance the safety of transits through the Seaway. Several of the amendments are merely editorial or for clarification of existing requirements. The joint regulations will become effective in Canada on March 31, 2013. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

**DATES:** The rule will become effective on March 31, 2013.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments received, go to <http://www.Regulations.gov>; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-001, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764-3200.

**SUPPLEMENTARY INFORMATION:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Condition of Vessels; Seaway Navigation; Dangerous Cargo; and, Information and Reports. These updates are necessary to take account of updated procedures which will enhance the safety of transits through the Seaway. Many of these changes are to clarify existing requirements in the regulations. Where new requirements or regulations are made, an explanation for such a change is provided below. The joint regulations will become effective in Canada on March 31, 2013. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway,

the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

**REGULATORY NOTICES:** Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.Regulations.gov>.

The SLSDC is amending two sections of the Condition of Vessels portion of the joint Seaway regulations. Under section 401.10, "Mooring lines", the SLSDC is providing flexibility to vessels by allowing the use of soft lines with a diameter not greater than 64 mm. For safety purposes in section 401.14, "Anchor marking buoys", the SLSDC is amending the rules to require vessels to deploy an anchor marking buoy when dropping anchor in the Seaway.

In the Seaway Navigation section, the Seaway Corporations are amending their joint rules in section 401.49, "Dropping anchor or tying to a canal", to require every anchor to be suitably rigged for immediate release, holding, and efficient retrieval. Currently, some tug and barge combinations are not equipped with a windlass or other means to retrieve an anchor and therefore must retrieve the anchor using "block and tackle" arrangements, which are not suitable for anchor retrieval. One comment was received which inquired whether there is sufficient and common knowledge that block and tackle arrangements are not suitable under this section. Since 2000, the Canadian Seaway in its Seaway Handbook has required that a stern "anchor shall be suitably rigged for immediate release, holding and efficient retrieval." There have been several instances where a vessel and/or barge had inoperative windlasses or winch systems. While it

was easy for the vessel to release an anchor, there were many times that it took several hours to retrieve the anchor. Block and tackle arrangements are not suitable to use in Seaway waters where the channel is narrow and one vessel can block the channel for hours resulting in delays to other traffic and putting other vessels in an unsafe condition or location because the other vessel or barge is using block and tackle to retrieve an anchor. This requirement applies to both emergency and authorized anchorings.

In the Dangerous Cargo section, the rules are amended to require that before any hot work, which is defined as any work that uses flame or than can produce a source of ignition, cutting or welding, can be carried out on any vessels at SLSMC approach walls or wharfs, a written request must be sent to the SLSMC. In addition, the rules specify requirements for tankers performing hot work. Such vessels must be gas free or have their tanks inerted in order to obtain clearance from the SLSMC Traffic Control Center.

In the Information and Reports section, a change to section 401.79, “Advance notice of arrival, vessels requiring inspection” is made. The amendments will require tug and barge combinations not on the “Seaway Approved Tow” list to be inspected prior to every transit of the Seaway unless they are provided with a valid Inspection Report for a round trip transit.

The other changes to the joint regulations are merely editorial or to clarify existing requirements.

### **Regulatory Evaluation**

This regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

### **Regulatory Flexibility Act Determination**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

### **Environmental Impact**

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.) because it is not a major federal action significantly affecting the quality of the human environment.

### **Federalism**

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this proposal does not have sufficient federalism implications to warrant a Federalism Assessment.

### **Unfunded Mandates**

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

### **Paperwork Reduction Act**

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

### **List of Subjects in 33 CFR Part 401**

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is amending 33 CFR Part 401, Regulations and Rules, as follows:

## **PART 401 – SEAWAY REGULATIONS AND RULES**

### **Subpart A – Regulations**

1. The authority citation for subpart A of part 401 continues to read as follows:

**Authority:** 33 U.S.C. 983(a) and 984(a) (4), as amended; 49 CFR 1.52, unless otherwise noted.

2. In § 401.10, revise paragraph (a)(2); and add a new paragraph (e) to read as follows:

#### **§ 401.10 Mooring lines.**

(a) \* \* \* \* \*

(2) Have a diameter not greater than 28 mm for wire line and not greater than 64 mm for approved synthetic lines;

\* \* \* \* \*

(e) Hand held synthetic lines if permitted by the Manager or Corporation shall meet the criteria in paragraph (a) of this section and shall have a minimum length of not less than 65 meters.

\* \* \* \* \*

3. Revise § 401.14 to read as follows:

#### **§401.14 Anchor marking buoys.**

- (a) A highly visible anchor marking buoy of a type approved by the Manager and the Corporation, fitted with 22 m of suitable line, shall be secured directly to each anchor so that the buoy will mark the location of the anchor when the anchor is dropped.
- (b) Every vessel shall deploy the anchor marking buoy when dropping an anchor in Seaway waters.

4. In § 401.28, revise paragraph (d) to read as follows:

**§401.28 Speed limits.**

\* \* \* \* \*

(d) Notwithstanding the above speed limits, every vessel approaching a free standing lift bridge shall proceed at a speed so that it will not pass the Limit of Approach sign should the raising of the bridge be delayed.

5. Revise § 401.29 to read as follows:

**§ 401.29 Maximum draft.**

- (a) Notwithstanding any provision herein, the loading of cargo, draft and speed of a vessel in transit shall be controlled by the master, who shall take into account the vessel's individual characteristics and its tendency to list or squat, so as to avoid striking bottom.<sup>1</sup>
- (b) The draft of a vessel shall not, in any case, exceed 79.2 dm or the maximum permissible draft designated in a Seaway Notice by the Manager and the Corporation for the part of the Seaway in which a vessel is passing.
- (c) Any vessel equipped with an operational Draft Information System (DIS) verified by a member of the International Association of Classification Societies (IACS) as compliant with the Implementation Specifications found at <http://www.greatlakes->

[seaway.com](http://seaway.com) and having onboard the items listed in paragraphs (c)(1) through (5) of this section will be permitted, when using the DIS, subject to paragraph (a) of this section, to increase their draft by no more than 7 cm above the maximum permissible draft prescribed under paragraph (b) of this section in effect at the time:

- (1) An operational AIS with accuracy=1 (DGPS); and
  - (2) Up-to-date electronic navigational charts; and
  - (3) Up-to-date charts containing high-resolution bathymetric data, and
  - (4) The DIS Display shall be located as close to the primary conning position and be visible and legible; and
  - (5) A pilot plug, if using a portable DIS.
- (d) Verification document of the DIS must be kept on board the vessel at all times and made available for inspection.
- (e) A company letter attesting to officer training on use of the DIS must be kept on board and made available for inspection.
- (f) Any vessel intending to use the DIS must notify the Manager or the Corporation in writing at least 24-hours prior to commencement of its initial transit in the System with the DIS.
- (g) Any vessel intending to use the DIS to transit at a draft greater than the maximum permissible draft prescribed under paragraph (b) of this section in effect at the time, for subsequent transits must fax a completed confirmation checklist found at [www.greatlakes-seaway.com](http://www.greatlakes-seaway.com) to the Manager or the Corporation prior to its transit.
- (h) If for any reason the DIS or AIS becomes inoperable, malfunctions, or is not used while the vessel is transiting at a draft greater than the maximum permissible draft

---

<sup>1</sup> The main channels between the Port of Montreal and Lake Erie have a controlling depth of 8.23m.



prescribed under paragraph (b) of this section in effect at the time, the vessel must notify the Manager or the Corporation immediately.

6. Revise § 401.49 to read as follows:

**§ 401.49. Dropping anchor or tying to canal bank.**

Except in an emergency, no vessel shall drop anchor in any canal or tie-up to any canal bank unless authorized to do so by the traffic controller. Every anchor shall be suitably rigged for immediate release, holding and efficient retrieval.

7. Revise § 401.73 to read as follows:

**§401.73 Cleaning tanks – hazardous cargo vessels.**

(a) Cleaning and gas freeing of tanks shall not take place:

- (1) In a canal or a lock;
- (2) In an area that is not clear of other vessels or structures; and
- (3) Before gas freeing and tank cleaning has been reported to the nearest Seaway station.

(b) Hot work permission. Before any hot work, defined as any work that uses flame or that can produce a source of ignition, cutting or welding, is carried out by any vessel on any designated St. Lawrence Seaway Management Corporation (SLSMC) approach walls or wharfs, a written request must be sent to the SLSMC, preferably 24 hours prior to the vessel's arrival on SLSMC approach walls or wharfs. The hot work shall not commence until approval is obtained from an SLSMC Traffic Control Center.

(c) Special requirements for tankers performing hot work. Prior to arriving at any SLSMC designated approach wall or wharf, a tanker must be gas free or have tanks

inerted. The gas-free certificate must be sent to the SLSMC Traffic Control Center in order to obtain clearance for the vessel to commence hot work.

8. In § 401.79 revise paragraph (b)(4) to read as follows:

**§401.79 Advance notice of arrival, vessels requiring inspection.**

\* \* \* \* \*

(b) \* \* \*

(4) Tug/barge combinations not on the “Seaway Approved Tow” list are subject to Seaway inspection prior to every transit of the Seaway unless provided with a valid Inspection Report for a round trip transit.

Issued at Washington, D.C. on March 11, 2013.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Craig H. Middlebrook

Acting Administrator

Billing Code 4910-61-P